

THE MADRAS LEGISLATIVE COUNCIL.

Wednesday, the 19th January 1949.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Applications for loans by agriculturists for sinking wells, etc.

* 175 Q.—SRI MOTHEY NARAYANA RAO : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) whether the Government are aware that there is great delay in the disposal of applications for loans by agriculturists for sinking wells, etc.; and

(b) if so, what action is proposed to be taken for the speedy disposal of such applications?

THE HON. SRI KALA VENKATA RAO :—“(a) & (b) It is possible that there have been some cases of delay. Instructions have already been issued to the Collectors and the special staff urging on them the importance of prompt disposal of applications.”

SRI B. BHIMA RAO :—“Are the Government aware that there is considerable delay in sinking these wells and the sinking is not expedited?”

THE HON. SRI KALA VENKATA RAO :—“The hon. Member would have seen the Press Note to-day. Even for the current year out of one crore fifty lakhs nearly one crore was disbursed up to the end of December and the other 50 lakhs will be disbursed by the end of this month. With reference to the previous year's work is practically complete except in the case of Ceded Districts accelerated scheme and a portion of the 1947-48 scheme for which some extension is given.”

SRI B. BHIMA RAO :—“Are these wells expected to be dug by the 31st March 1949.”

THE HON. SRI KALA VENKATA RAO :—“Last year's scheme will be completed in the current year in good time before perhaps September because the actual construction will be in summer.”

SRI R. SURYANARAYANA RAO :—“Have the Government taken into account the difficulty of securing materials for the completion of wells in time?”

THE HON. SRI KALA VENKATA RAO :—“That is the reason why extension is being granted from time to time.”

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MR. PRESIDENT :—“ I saw some announcement recently that Government have got some machine by which a well could be dug in three days.”

THE HON. SRI KALA VENKATA RAO :—“ The gentleman concerned was with me yesterday and he has undertaken to demonstrate the experiment somewhere near Madras and the hon. Members and Hon. the President can also see the experiment.”

MR. PRESIDENT :—“ Where is it that the experiment will be conducted? ”

THE HON. SRI KALA VENKATA RAO :—“ I will see that it is informed to all the gentlemen concerned.”

Applications from the West Godavari district for subsidy to sink wells.

* 176 Q.—SRI MOTHEY NARAYANA RAO : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) how many applications have been received from the West Godavari district for subsidy to sink wells under the “ Grow More Food Scheme ” for the years 1947–48 and 1948–49;

(b) how many of the above are from the Dendurur firka;

(c) the number of wells for which subsidy has been granted;

(d) whether it is a fact that many of the wells could not be finished in time as the subsidy was disbursed late; and

(e) whether the Government propose to give extension of time for the completion of the works?

THE HON. SRI KALA VENKATA RAO :—“ (a) The number of applications received from the West Godavari district for subsidy to sink wells under the Grow More Food Schemes is 179 under the New Well Subsidy Scheme, 1947–48 and 603 under the 1948–49 scheme.

“ (b) The number from Dendurur firka is 128 under the 1947–1948 scheme and 196 under the 1948–49 scheme.

“ (c) The number of wells for which subsidy was sanctioned under the 1947–48 scheme is 18. The applications received under the 1948–49 scheme have not yet been disposed of. The special staff have been instructed to dispose of all pending applications quickly.

“ (d) & (e) The subsidy amounts were disbursed in February and March 1948 but the applicants had time till 30th September 1948 to complete the wells. Further extension of time till 30th June 1949 has however since been granted.”

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[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—STATEMENT OF THE HON. THE REVENUE MINISTER.

MR. PRESIDENT :—“ Does the Hon. the Revenue Minister want to take leave of the House? ”

* THE HON. SRI KALA VENKATA RAO :—“ I really regret to take leave of you and the hon. Members of the House. I may expect to hand over charge on the 24th evening and will not be able to attend the session of the Council till the 22nd. Therefore, Sir, this will be the last occasion to see you and the hon. Members of the House. I most heartily thank you and the Members for the good co-operation you and the hon. Members gave me during the 22 months of my minstership. I very much thank you, Sir.”

THE HON. DR. T. S. S. RAJAN :—“ In duty bound, I must inform the hon. Member that this House considers his going away from us as something which we will all regret. At the same time the fact remains that he is going out to engage himself in a bigger sphere to work and perhaps of wider service to the nation at large. It is with that view in my mind we will accept, and regretfully accept his withdrawal from the deliberations of this House in which he has taken a prominent part during the last two years. As Minister in charge of Revenue his presence has been very valuable and those of us who know how well he conducted the proceedings of the Zamindari Bill which is perhaps one of the biggest Bill dealt with by us in this House, will know the amount of application, the amount of interest and the amount of work, he has put into the Bill that passed through this House and it is now on the way of approval of His Excellency the Governor-General. I am sure that you and the hon. Members of this House will echo the sentiments which I am giving expression to that one and all of us do appreciate his valuable services to this House as Member representing Revenue. We wish him all God speed in his new sphere of activity and I am sure as far as this House is concerned we have to make this statement because he still continues to be a Member of the Assembly. But as far as this House is concerned as a Member of the Government of the Revenue Department he will discontinue and therefore I have found it necessary to make this statement, I have made. We all appreciate his work and one and all of us will follow with interest his activities in the wider sphere of service for the nation at Delhi.”

MR. PRESIDENT :—“ The Hon. Revenue Minister has an engagement with His Excellency at 11-30 a.m. and that is why I am disturbing the proceedings of the House.”

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ On behalf of the Opposition, I very much regret that the Hon. Mr. Kala Venkata Rao is handing over charge of the Revenue portfolio. But we all feel there is an amount of happiness and joy also because he has taken upon himself the responsibility to work in a wider sphere. His appointment or his selection as the General Secretary of the Congress does credit not only to himself but also to the people of this Province. His ability, his tact and his perseverance in any

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matter that he takes up particularly the Zamindari Bill which he piloted in the other House and in this House has brought very great credit not only to himself but also to this Province. I am certain, Sir, that he will bring to bear on the Congress Organization the rich experience that he has gained not only in the national movement but in the Legislature as well. Sir, I once again mention that he really held the torch of independence in 1921 movement. In those days, Sir, there was a feeling of fellowship and a feeling of brotherhood which I am sure will continue in the independent India. I wish him God speed on behalf of the Opposition and also hope that this General Secretaryship of the Congress will be for him a precursor of great national honour and greater national service and sacrifice. Gentlemen like him will be remembered not only by this generation but also by posterity. Gentleman like him will have not only all-India and Provincial fame but destined to have international fame and I am sure that all of us will pray that he will be spared very long for national service and national activities. His presence in the All-India Congress Committee will be viewed with pride and we will be watching his activities with great interest."

11-15
a.m

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—
Mr. President, Sir, I have nothing to add to what has been said already. I only rise to associate myself on behalf of my party with the sentiments expressed by the Leader of the House and the Deputy Leader of the Opposition. We have all known the Hon. Mr. Kala Venkata Rao for his ardour and perseverance and how he had been able to handle very great complicated questions of revenue, and that is itself sufficient testimony to his ability. I do not want to take up much time of the House. I only feel sorry that he is leaving us; but it is a mixed feeling of joy and sorrow, and the consolation is that he is going away from us in response to the call of duty from a higher quarter. I wish him success in the activities which await him, which of course will give him wide and rich experience. Once more, Sir, I wish him success."

* SRI C. N. MUTHURANGA MUDALIYAR :—" Mr. President, Sir, I wish to associate myself in this brief function. I wish the Hon. Mr. Kala Venkata Rao all joy and God speed in his new venture. But as the Leader of the House has indicated, he has not burnt his boats: he continues to be a Member of the other House, if not of this House, and that is good so far as it goes. So I am led to think that as soon as his work in the All-India Congress Committee is over, and perhaps at the time of the next elections he will come back to us with greater vigour and energy and conduct the affairs of this province in a greater and more efficient manner, unless of course he is wanted in a higher sphere of activity in the Central administration. Even then, when he comes back to us, we would welcome him with open arms and give him the responsible position due to him in this province. Sir, I wish him once again success in his new sphere of work."

DR. V. K. JOHN :—" Mr. President, Sir, I am sorry I was late; but all the same, I feel it my duty to pay my compliments to

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the Hon. Revenue Minister. I remember I once said, after the passing of the Zamindari Abolition Bill, of him that he would be an ornament to any Government. Sir, the impression that he has left in me is—and in that my friends also share with me the same feeling—that he is one of those who sincerely want to do selfless service to the country. He has great achievements to his credit in the struggle for winning freedom to this country. He has won great credit to himself as a Member of this Government and I am sure in the new position he is to take up as secretary of the great national organization he will win more laurels and discharge his duties to the satisfaction of everybody, Congressmen and non-Congressmen and to the nation as a whole and he will take a leading part in the reconstruction of this country. I hope, after the achievement of freedom, he will do his best to build a new India on the foundations of unity, integrity and solidarity, which alone will give strength, prestige and greatness to this country. He will neutralize all forces of disintegration and harness and develop all forces of unity. We have great hopes for his future and that he would discharge his duties as secretary of a great organization efficiently and he will bring credit to south India; for although we should feel that we are Indians first and Indians last, nevertheless we shall always feel proud that he from the south, has been chosen to be one of the secretaries of the great organization and he will bring credit to south India. Sir, I congratulate him for what he has done and wish him all success in his new field of work."

MR. PRESIDENT:—"It is very difficult to describe one's feelings on an occasion like this. The Hon. Mr. Kala Venkata Rao's services and qualities have been recognized not only in this House but outside this House. He has always been known for his very pleasing exterior and affable manners, and he has done his bit not only in the national cause of winning freedom for his country but also in the legislative field, which has fallen to his lot. I am sure his contribution to the legislative enactment of this Province will stand out as a momentous step in the direction of improving the economic condition of this Province. That is no mean achievement, and I am sure any Minister of any province in this great country would be proud of such an achievement as that. Now he is going to a perhaps higher position, though not higher in the sense of greater power and patronage, but higher in the sense that he has greater opportunities not only for serving the country, but also of directing and guiding the activities of various provinces which directly or indirectly will be under his supervision. I am sure the House will agree with me when I say that his association with this House has been pleasant. There has not been even a single instance of expression of bitterness of feeling by him either to me or to any Member. His association with this House has been very pleasing and very cordial. I wish him all happiness and prosperity. I am sure he will not be a stranger to this Province, as he will be a Member of the other House, and I am sure whenever we want him he will show himself up to us. (Laughter.) I wish him all happiness and prosperity."

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THE HON. SRI KALA VENKATA RAO :—“ Sir, I thought this will be a simple leave-taking, and I never expected a shower of blessings and praise from my esteemed colleagues the Leader of the House, the Deputy Leader of the Opposition and Mr. Ibrahim and others, and more than anything else from the Chair. As my heart is full, I cannot speak more. I am very glad that I have the goodwill of all the Members of this House, which will certainly help me in the discharge of my future duties in the rebuilding and reconstructing of an independent India, but nonetheless a poor India practically in distress on account of the economic situation. I will not lose association either with Madras or this House, for I shall, even from that distance, carefully study what is going on here. I thank you for all the round of blessings you have given me. I shall carry with me this pleasant association throughout my life. I thank you.”

(The hon. Sri Kala Venkata Rao then left the House.)

STARRED QUESTIONS

I.—QUESTIONS AND ANSWERS—*cont.*

Instructions regarding Communists.

* 168 Q.—SRI B. BHIMA RAO : Will the Hon. the Premier be pleased to state—

(a) whether the Government have issued any instructions to the Collectors and Police authorities in the mufassal defining ‘Communism’ and what political characteristics constitute a person a ‘Communist’; and what characteristics differentiate a Socialist from a Communist;

(b) whether it is a fact that about twenty persons detained in the Vellore Central Jail as Communists have signified their loyalty to and expressed their intention to stand by and support the present Dominion Government of India and in favour of non-violence and adoption of constitutional methods; and

(c) whether the Government have considered their cases and ordered their release?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Premier) :—“ (a) No.

“ (b) Yes.

“ (c) The matter is under consideration.”

SRI B. BHIMA RAO :—“ How do the Collectors and District Magistrates act on the report that a certain man is a Communist, Sir? ”

THE HON. DR. T. S. S. RAJAN :—“ I do not follow the hon. Member’s question.”

SRI B. BHIMA RAO :—“ What political views should a man hold or one should practise in order to be characterized as a Communist? ”

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THE HON. DR. T. S. S. RAJAN :—“ To be a Communist, I think, is no offence; but if he does anything wrong, any unlawful act, then of course the District Magistrate will take note of it and he will be properly dealt with.”

SRI B. BHIMA RAO :—“ May I take it that commission of acts of violence is one of the criterions for being called a Communist? ”

THE HON. DR. T. S. S. RAJAN :—“ I do not think it is so. But if a man commits violence, whether he is a Communist or not, he will be dealt with.”

SRI B. BHIMA RAO :—“ Do members of R.S.S. come under the category of Communists? ”

THE HON. DR. T. S. S. RAJAN :—“ If they commit any acts of violence, they will be punished.”

SRI B. BHIMA RAO :—“ Before they commit any act of violence, will any action be taken against them? ”

THE HON. DR. T. S. S. RAJAN :—“ We cannot answer about the intention of Government in an interpellation in this House.”

SRI B. BHIMA RAO :—“ Then why did Government declare the R.S.S. an unlawful body even when they did not do an unlawful act? ”

MR. PRESIDENT :—“ May I know which Government declared them so? ”

THE HON. DR. T. S. S. RAJAN :—“ So far as this Government is concerned, this Government did not declare them unlawful.”

SRI B. BHIMA RAO :—“ I believe this Government has declared them unlawful.”

MR. PRESIDENT :—“ No, it is the Government of India.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ Will the Government consider the advisability of disposing of the applications as expeditiously as possible in view of the fact that a mere delay in the disposal of the applications may lead to the possibility of such Communists becoming more hardened? ”

THE HON. DR. T. S. S. RAJAN :—“ Government are dealing with these cases as expeditiously as possible. There are certain procedures to be adopted when Communists or those on their behalf seek some relief. The matter is referred to a committee. The decision of the committee is referred to their respective area to ascertain whether it is in public interest that they should be released even after they had given an undertaking. When once all this procedure has been gone into—I am sure all this is done expeditiously—then release is ordered.”

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SRI B. BHIMA RAO :—“ Have the committees met after I sent notice of my interpellation three months back? ”

THE HON. DR. T. S. S. RAJAN :—“ The committees are meeting.”

SRI R. SURYANARAYANA RAO :—“ Sir, there are several cases in other jails where prisoners have signified their loyalty to Government and have submitted representations for their release to the Government and I do not know what action has been taken.”

THE HON. DR. T. S. S. RAJAN :—“ I am sure all these cases are taken up seriatim and are being examined with a view to their release.”

Rules governing appointments in Government service.

* 169 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Premier be pleased to state—

(a) what the rules governing appointments to various services are in respect of (1) direct recruitment and (2) promotions from lower ranks;

(b) what the circumstances are under which direct recruitment to a service can be dispensed with;

(c) what the services are in respect of which Government can recruit themselves either directly or by promotion without the intervention of the Public Service Commission; and

(d) whether it is a fact that many appointments are being made under emergency provisions and even extension of time is being sought for such appointments without securing recruitment through the Public Service Commission?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Premier) :—“ (a) The hon. Member is referred to the rules contained in the Madras Services Manual, Volumes II and III which should be read with the general rules printed at pages 138-159 of Volume I of the manual. The manual is available for reference at the library of the Madras Legislature and also at the Secretariat Library.

(b) The methods of recruitment prescribed in the various rules are invariably followed. If, in respect of a particular service or post, raw recruits will not suit, the method of recruitment will be by promotion within the service or by transfer from any other service.

(c) The list of services and posts which have been excluded from the purview of the Commission is printed in Annexure I to the Madras Public Service Commission Regulations, 1937, at pages 11-13 of Volume I of the Madras Services Manual mentioned in the answer to clause (a). In respect of those services and posts, either the Government or the respective appointing authority prescribed in the concerned

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special rules makes the appointments. In respect of the other services and posts, the Madras Public Service Commission makes the selection.

“(d) On account of the situation created by the war and post-war periods, a large number of emergency appointments had to be made. Steps were and are duly taken to replace the candidates so appointed by regularly selected candidates. If, in any particular case the emergency appointment has to be continued for a period exceeding three months, the concurrence of the Madras Public Service Commission is duly obtained as required by the rules.”

SRI R. SURYANARAYANA RAO:—“Are the emergency provisions applicable only to initial appointments or do they apply even to promotions?” 11-30 a.m.

THE HON. DR. T. S. S. RAJAN:—“I think they are applied to initial appointments.”

SRI R. SURYANARAYANA RAO:—“Is the communal rule applicable to emergency appointments also?”

THE HON. DR. T. S. S. RAJAN:—“I think so.”

Steps taken to prevent smuggling of foodgrains by sea to Ceylon.

* 170 Q.—SRI K. MANATHUNAINATHA DESIGAR: Will the Hon. the Minister for Food be pleased to state—

(a) the steps taken by the Government to prevent smuggling of foodgrains by sea to Ceylon;

(b) whether it is a fact that a certain vessel called ‘Motor Launch’ was purchased by the Government;

(c) if so, when and at what cost;

(d) to what use it was put and for how many days;

(e) whether it is a fact that a party of smugglers escaped in a motor launch very recently through the river Coleroon, in the Chidambaram taluk into the sea;

(f) what action the anti-smuggling police party took and with what results; and

(g) what further steps the Government propose to take to prevent smuggling effectively in future?

THE HON. DR. T. S. S. RAJAN:—“(b), (c) & (d) No vessel by name ‘Motor Launch’ was purchased by the Government. But a motor fishing vessel named ‘Tessa’ was purchased by the Government about the end of the year 1946, at a cost of about Rs. 40,000. It was used for anti-smuggling patrol along the east coast of the Province from July to September 1947.

“(a), (e), (f) & (g) The Government regret that it is not in the public interest to disclose the information.”

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SRI K. MANATHUNAINATHA DESIGAR :—“ May I know whether the purchase of the vessel was made after consulting qualified persons? ”

THE HON. DR. T. S. S. RAJAN :—“ As far as I know, the vessel was purchased from the disposal of the surplus war materials in the Bombay Port, and it was duly inspected and thought worthy of being purchased.”

SRI K. MANATHUNAINATHA DESIGAR :—“ May I know whether the Government consulted any qualified person as to whether the vessel would serve the purpose for which it was intended? ”

THE HON. DR. T. S. S. RAJAN :—“ Yes.”

SRI R. SURYANARAYANA RAO :—“ Is the vessel now used for the purpose for which it was purchased? ”

THE HON. DR. T. S. S. RAJAN :—“ It is not now used.”

Ration shops in Chingleput.

* 171 Q.—SRI C. N. MUTHURANGA MUDALIYAR : Will the Hon. the Minister for Food be pleased to state whether it is a fact that the Government have issued orders to the Collector of Chingleput district to give ration shops to the old ration shop-keepers?

THE HON. DR. T. S. S. RAJAN :—“ No. Collectors have been instructed to see that only such of the old ration shop-keepers who had a clean record are appointed as ration shop-keepers and that the remaining vacancies are filled in by new men (not necessarily those who were in the trade before) with the necessary qualification and who can be trusted to be honest.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ Is it not a fact that some of the ration shop-keepers who misbehaved during the former control days have now been allowed to open ration shops? ”

THE HON. DR. T. S. S. RAJAN :—“ If the hon. Member has information to that effect and if he will pass it on to me, I shall make enquiries.”

Revision of bus-fares in the Madras City.

* 172 Q.—SRI S. B. ADITYAN : Will the Hon. the Minister for Finance be pleased to state—

(a) whether the Transport Advisory Board, at its meeting on the 28th October 1948, decided to revise bus-fares on Government Transport buses in the Madras City;

(b) if so, what the old and new fares are on the various routes;

(c) whether it is a fact that the representatives of the Bus Passengers' Association walked out of the meeting in protest;

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(d) whether it is a fact that the Government have approved of the revision of the fares; and

(e) if so, whether the Government took into consideration the fact that a popular route could be operated at a smaller fare per mile than an unpopular route?

THE HON. SRI B. GOPALA REDDI :—“(a) The answer is in the affirmative.

“(b) A statement^a is laid on the table of the House.

“(c) Sri R. R. Dalavai did walk out in protest.

“(d) The fares were only rationalized in accordance with the rates approved by the Government in November 1947 after due publication. The question of Government's approval of the revised fares did not therefore arise.

“(e) This question does not arise in view of the answer to clause (d) above.”

SRI R. SURYANARAYANA RAO :—“May I know whether the Government have since received fresh proposals for the revision of fares and, if so, whether they are under consideration?”

THE HON. SRI B. GOPALA REDDI :—“There have been proposals not about the revision of fares but about the revision of stages and these are under the consideration of the Government.”

SRI S. B. ADITYAN :—“Is it not a fact that on all the 37 routes, the revised fares are either stationary or higher and that on no route there has been any reduction?”

THE HON. SRI B. GOPALA REDDI :—“It is obvious from the comparative statement placed on the table of the House.”

SRI B. BHIMA RAO :—“Will the Government consider the desirability of making the fare from Parrys to Tyagarayanagar, uniform on all routes?”

THE HON. SRI B. GOPALA REDDI :—“It is under the consideration of the Government.”

SRI R. SURYANARAYANA RAO :—“Is there a proposal to reconstitute the Transport Advisory Board?”

THE HON. SRI B. GOPALA REDDI :—“Yes, the City Transport Advisory Board is going to be reconstituted.”

SRI S. B. ADITYAN :—“Will the Government consult public opinion and revise the fares in conformity with it?”

THE HON. SRI B. GOPALA REDDI :—“I do not think we can consult public opinion with regard to revision of fares. But with regard to the revision of stages and connected matters, the Transport Advisory Board, which will be broad-based under the proposed reconstitution, will certainly be consulted.”

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Running of special buses for the Race Course..

* 173 Q.—SRI C. N. MUTHURANGA MUDALIYAR : Will the Hon. the Minister for Finance be pleased to state—

(a) whether it is a fact that special buses are proposed to be run for the benefit of race-goers and race-bettors;

(b) whether it is a fact that the Transport Department has recently advertised the running of special buses to the Guindy Race Course;

(c) whether it is a fact that the Government have recently abolished the third and second enclosures in the race-course with a view to minimizing the betting evil;

(d) whether it is a fact that the Government have already introduced a Bill for the abolition of betting in racing;

(e) at what stage that Bill is and whether the Select Committee has finished its labour; and

(f) whether the Government have any intention to issue instructions to the Transport Department to withdraw the advertisements?

THE HON. SRI B. GOPALA REDDI :—“(a) It is a fact that special buses are being run to Guindy on race days.

“(b) No advertisements were published; but the intention to run the special buses was announced to the Press in advance by the Transport Department.

“(c) There is no third enclosure for betting. No orders have been issued withdrawing the permission granted for the second enclosure.

“(d) The Madras City Police and Gaming (Amendment) Bill is intended to prohibit betting on horse races.

“(e) The Select Committee appointed by the Assembly to consider the Bill has made its report. The Hon. the Minister for Public Works who is in charge of the Bill has given notice to the Assembly to present the Select Committee's report and to move that the Bill be taken into consideration. I may add that the motion was moved yesterday and that the Bill is under the consideration of the Assembly.

“(f) The question does not arise in view of the answer to clause (b) above.”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“Will the Government consider the desirability of discontinuing the running of special buses in view of their declared policy to prevent betting on horses?”

THE HON. SRI B. GOPALA REDDI :—“No, Sir. We will run buses to Guindy as long as racing is allowed to continue there.”

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K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Do the Government want to encourage betting especially by the poor people who travel by bus? "

THE HON. SRI B. GOPALA REDDI :—" It is not a question of encouraging betting. When a large number of people crowd at any place, we run special buses for that place."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Even when that going is for an illegal purpose? "

THE HON. SRI B. GOPALA REDDI :—" It is not an illegal purpose so long as racing is allowed by the Government. Suppose there is a conference of Muslim Leaguers under the presidency of the hon. Member. Then also we will run special buses to the place of the conference."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Thousands of families are ruined on account of betting, and it is the policy of this Government to discourage betting. Even before the Bill is passed for abolishing betting at the races, why should not the Government try to prevent the evil as far as possible? "

THE HON. SRI B. GOPALA REDDI :—" I don't think the hon. Member is asking for any information. So long as racing is there, the Government Transport buses will run because a large number of people find it very inconvenient to travel by other means of transport. The Transport department is there to serve the people, whether it is for going to the race-course or a foot-ball match or a Muslim League Conference."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Is it not the policy of the Government to prevent people from betting in races as it brings misery to thousands of families? "

MR. PRESIDENT :—" I think the point has been sufficiently canvassed."

Extent of casuarina plantations undertaken by the Government.

* 174 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Agriculture be pleased to state—

(a) the localities and the extent of casuarina plantations undertaken by the Government;

(b) whether all these plantations have been successful;

(c) whether, before an area is chosen for casuarina plantation, a survey is made and suitability of the soils is ascertained; and

(d) what steps the Government propose to take to increase casuarina plantations?

THE HON. SRI K. MADHAVA MENON :—" (a) A statement ^a showing the localities and the extent of casuarina plantations undertaken by Government from the year 1940-41 onwards is placed on the table of the House.

(b) It cannot be said that all these plantations have been quite successful. There have been widespread casualties from 1945

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to 1948 wherever plantations were raised in widely separated localities affecting both Government and private plantations and the casualties are due to adverse climatic factors, viz., the 1945 drought, the 1946 floods, the short spell of severe hot weather that prevailed in June 1947 and the complete failure of the north-east monsoon in July 1947, the cumulative effect of which has caused mortality in varying degrees wherever casuarina is raised.

“(c) Yes.

“(d) Under the Post-war Reconstruction proposals, the target figure for raising casuarina throughout the Province—not all of it necessarily to be departmental planting—has been fixed at 150,000 acres on a 10-year rotation of 15,000 acres per year. With this end in view, plantations have been taken up in certain forest divisions mostly in coastal areas and also in the Cauvery Coleroon padugais. Interior areas selected in the Tanjore revenue district for raising casuarina have been handed over to villagers and co-operative societies for casuarina planting. New areas have also been selected in suitable localities in the northern taluks of Tiruchirappalli revenue district. The possibility of reserving areas for casuarina plantations in or near Bellary district is under investigation. So far 21,573 acres have already been planted with casuarina.”

SRI R. SURYANARAYANA RAO :—“Is any assistance given to private persons interested in raising casuarina plantation?”

THE HON. SRI K. MADHAVA MENON :—“Wherever technical advice is sought, it is given. Whoever asks for the seedlings of casuarina trees, they are given.”

[175 Q. and 176 Q. were already answered—Please see pages 809 and 810.]

The Madras Drugs Rules.

* 177 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Public Health be pleased to state—

- (a) whether the Madras Drugs Rules have been promulgated;
- (b) what the arrangements are for their enforcement;
- (c) whether a retail dealer of drugs who deals in drugs either in bulk or loose and does not undertake dispensing is required to employ a compounder;
- (d) whether licences have been cancelled for not appointing compounders; and
- (e) whether the compounders appointed should all be fully qualified?

THE HON. SRI A. B. SHETTY :—“(a) Yes, from 1st April 1947.

“(b) The Surgeon-General has been appointed as the Provincial Drugs Controller and Licensing Authority. A separate drugs section has been formed in the Surgeon-General's office for

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administrative and executive work under the immediate charge of a Civil Surgeon who has been appointed to assist the Surgeon-General in the discharge of his functions as the licensing authority and for the purpose of inspection of manufacture of drugs other than those mentioned in Schedules C and C-1 of the Drugs Rules, 1945. One separate Special Department of Biological Control has been formed in the King Institute, Guindy, for analytical work connected with the enforcement of the Drugs Act and the Rules with necessary staff. The laboratory is not yet fully equipped. The District Medical Officers and the Gazetted Medical Assistants have been appointed as ex-officio inspectors for the purpose of inspection of retail shops in their respective districts.

“(c) Purely wholesale dealers are not expected to have qualified compounders. But if they include retail sale of E and H drugs (poisonous drugs) they should have one or more compounders.

“(d) No.

“(e) They should hold either the diploma obtained on successful completion of the prescribed course for a year or the diploma marked ‘private’ issued by the Surgeon-General in favour of private candidates who have come out successful in any of the three examinations conducted after the promulgation of the Drugs Rules.”

SRI R. SURYANARAYANA RAO :—“Are the Government aware how difficult it is to get qualified compounders even for dispensaries run by them?” 11-45 a.m.

THE HON. SRI A. B. SHETTY :—“The Government are aware of the dearth of qualified compounders, Sir. That is why the rates of stipends for compounders have been increased both in the city and in the mufassal and the number of training centres has also been increased with a view to train more compounders and the age-limit for compounders has also been raised as a further inducement.”

SRI R. SURYANARAYANA RAO :—“May I know, Sir, whether it is not desirable that, till a sufficient number of qualified compounders become available, not to enforce the rules strictly and prosecute the licensees unnecessarily?”

THE HON. SRI A. B. SHETTY :—“If the dealers do not appoint qualified compounders, their licences are not immediately cancelled. They are given a specified time within which to secure the services of qualified compounders; otherwise, they are asked to dispose of their drugs to chemists and druggists who have qualified compounders.”

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“May I know, Sir, whether the age-limit for the recruitment of compounders to Government service has also been correspondingly increased?”

THE HON. SRI A. B. SHETTY :—“Yes, Sir, their age-limit has been raised from 25 to 30.”

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III.—NON-OFFICIAL BUSINESS.

THE MADRAS HINDU BIGAMOUS MARRIAGES PROHIBITION AND DIVORCE BILL, 1947 (L.A. BILL NO. 6 OF 1947)—*cont.*

Clause 2.

* DR. V. K. JOHN :—“ Mr. President, I beg to move the amendments standing in my name to clauses 2, 3 and 4, namely :—

‘ For clauses 2, 3 and 4, substitute the following :—

“ 2. No Hindu, Buddhist, Jaina or Sikh resident in the Province of Madras and having a wife or husband living shall solemnise or go through the form of a marriage except under the provisions of rules made from time to time by the Government and approved by the Legislature.

“ 3. Any person contravening or abetting the contravention of the provision of section 2 shall be deemed to have committed an offence under section 494 or section 495 of the Indian Penal Code.”

“ Mr. President, if you will kindly allow me to speak on these two amendments together, it would be convenient. Now, Sir, I have moved these two amendments mainly for two reasons. First of all, clauses 2, 3 and 4 of this Bill are very ambiguous, cumbersome and badly worded. This is a piece of social legislation and not only the wording used and definition given should be clear and unambiguous but there must be flexibility in its provisions. This Bill contains two matters. One is prevention of bigamy and the other is provision for divorce. In clause 2, the definition of the term ‘ Hindu ’ has been given. I say that the definition is very badly worded, and is very cumbrous. I used to criticize the Bills introduced by the Government, on their bad draftsmanship, but after having seen this Bill, which has been drafted by a non-official gentleman, I think I must compliment the Government. If you read clauses 2, 3 and 4 of the Bill as it stands, you will see how cumbersome, how ambiguous and how badly worded these clauses are. But, here, in this connexion, I should like to make it perfectly clear that I am not one of those who oppose the principles underlying this Bill providing for monogamous marriages. But my submission is that when we pass a legislation on any matter, we must pass it in a manner which should be acceptable to the Legislature. I was certainly of the opinion and am still of the same opinion that in a matter like this we should have an all-India legislation and I do not see why this Bill should be confined to the Province of Madras alone, when the subject-matter of the Bill should be applied to all the Hindus in India. In fact, this Bill could have been introduced by somebody in the Central Legislature and then we could have a law for all Hindus, Buddhists, Jains and

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Sikhs throughout this country. Be that as it may, let me confine myself to the amendments in question. Now, how does this Bill define the term 'Hindu'? Clause 2 of the Bill states that—

'In this Act, "Hindu" means—

(a) a person professing the Hindu religion in any of its forms or developments, including a Virashaiva or Lingayat or a member of the Brahmo, Prarthana or Arya Samaj, or

(b) a person professing the Buddhist, Jaina or Sikh religion.'

"In effect, this definition comes to this, that a Hindu means a Buddhist, Jaina or a Sikh. I submit, Sir, that this is atrocious. It is just like saying that for purposes of this Act, night means day, man means woman or that a chair means a table. It is absurd to insert a definition like that in a law. Why not we say plainly and clearly that no Hindu, Buddhist, Jaina or Sikh shall take a second wife when the first is alive? That would be plain enough. After all what we want is that people should understand the provisions of the law and the language we use should be clear to them. Now here, according to this definition, it comes to this, that a Hindu means a Buddhist. Does this not sound absurd? We should not be a party to a definition like this. Suppose, for example, it is said that 'No Hindu, Buddhist, Jaina or Sikh having a wife or husband living shall solemnize or go through another marriage;' then that will satisfy the draftsman of this Bill, because that conveys his real intention. I submit, Sir, that there should be a decorum in the use of the language in a piece of legislation.

"Now, let us look at the definition again. Explanation (1) under the definition says that a convert or re-convert to the Hindu, Buddhist, Jaina or Sikh religion is a Hindu. This again means that a convert to a Buddhist, Jaina or Sikh religion is a Hindu. One cannot think of passing a legislation in these words, when we can certainly use a better, more direct and more correct language to make a provision which the author of the Bill wants to provide.

"Then, Sir, explanation (2) states that it shall be presumed, until the contrary is proved, that a person who is not a Muslim, Christian, Parsi, or Jew by religion is a Hindu. There are presumptions in law. We have got it in the Evidence Act. But, after all, it is not difficult to find out whether a person is a Hindu by religion or a Buddhist or a Jaina or a Sikh. Why cannot we presume that a person is a Christian, if he is not a Muslim? I submit, Sir, that these explanations and definitions are so very cumbersome and unnecessary to express the intentions of the author of this Bill. This Bill should have gone through the hand of a person who could draft.

"Again, sub-clause (2) of clause 2 states—

'For the purposes of this Act, the domicile of a Hindu shall be determined in accordance with the provisions contained in sections 6 to 18 (both inclusive) of the Indian Succession Act, 1925.'

[Dr. V. K. John] [19th January 1949]

" Sir, during the general discussions of the Bill on its first reading, I read out sections 6 to 18 of the Indian Succession Act in this House and explained clearly that those sections have nothing to do with marriage at all. They deal only with succession to property and they are not germane to the provisions under this Bill and I therefore think that it is quite unnecessary to refer to those sections in this Bill.

' Then, Sir, clause 3 of this Bill says—

' This Act applies to Hindus domiciled in the Province of Madras.'

" Sir, you may remember that I raised this question of domicile even during the general discussions of the Bill and pointed out that there is no question of domicile of a person with reference to a Province, where he is living. He is only a resident of the Province. Domicile is with reference to the country as a whole following the same law. There can be no Hindus domiciled in the Province of Madras. If we want to extend the provisions of this Bill to all the Hindus in this Province, then we must say that this Act extends to all Hindu residents in the Province of Madras. You cannot extend the provisions of this Bill outside Madras. I cannot therefore understand the definite intention of this clause.

' Then, clause 4 of the Bill says—

' Notwithstanding any rule of law, custom or usage to the contrary, any marriage solemnized after the commencement of this Act between a man and a woman either of whom has a spouse living at the time of such solemnization shall be void, whether the marriage is solemnized within or outside the Province of Madras :

Provided that a man or woman whose marriage has been dissolved by a final order of a court of competent jurisdiction under section 5 or under any other law for the time being in force, or in accordance with any custom or usage permitting of divorce, may solemnize a valid marriage with another, after the expiry of six months from the date of such final order or from the date on which the marriage was dissolved in accordance with such custom or usage, as the case may be.'

" I submit, Sir, that there is too much of verbiage and unnecessary wording in this clause. The author wants to provide that any marriage solemnized after the commencement of this Act shall be void, if either party has a spouse living. When the marriage is dissolved, either party will lose their relationship. Six months after dissolution either party can marry somebody else. Why all the verbiage in the clause and unnecessary and cumbersome language? Why do you want to put in this unnecessary proviso? These will only bring in further complications which will lead to unnecessary litigation."

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MR. PRESIDENT :—" Perhaps the idea may be to give a six months' time in the same way as is provided for Iddat among Muhammadans in the Muhammadan Law, relating to Talak. May I know what is the time allowed according to the Christian Law? "

DR. V. K. JOHN :—" Sir, there is no such provision in the Christian Law. If a decree absolute is given, then the woman can marry immediately. The law of divorce in the Christian countries is founded upon the experience of ages. There are two decrees granted in connection with divorce, one the decree nisi and the other, the decree absolute. One of the fundamental principles of the law relating to divorce is that there should not be any collusion. If there is any such collusion, then the proctor can interfere and set aside the decree nisi. A court can give only a decree nisi, because the court does not know whether any of the facts have been concealed from it. It could only make enquiries on admissions of parties. First a decree nisi is granted and only after six months a decree absolute is given. During these six months, any stranger or the proctor appointed by the Crown can intervene and file a petition to the court to set aside the decree nisi.

" But this provision in this Bill does not provide for either a decree nisi or a decree absolute. But when once a decree is there, which you cannot set aside, why wait for six months for another marriage? Everybody is not familiar with the principle underlying the law of divorce. I claim that I have studied the principles underlying divorce and I practice in the matrimonial court. I have appeared in many case. I have studied the fundamental principles. Divorce is a matter concerning society. We should not merely bring in a Bill forgetting the fundamental principles underlying monogamy and divorce. In the place of these cumbrous clauses, what I am suggesting is the introduction of one small section to the effect that no Hindu, Buddhist, Jaina or Sikh resident in the Province of Madras and having a wife or husband living shall solemnize or go through the form of a marriage except under the provisions of rules made from time to time by the Government and approved by the Legislature. This can take the place of clauses 2, 3 and 4. As for punishment, I am attracting the provisions of Penal Code. The Bill as it stands is also doing that. If my amendment is accepted, there will be a great advantage. We are now legislating on a social matter. You as a lawyer know, Sir, that law has got two characteristics, one is certainty and the other is flexibility. When you legislate, you lose flexibility. Law should live. And law must grow. You must always provide for flexibility in any legislation which you pass. Now we have a national Government who are in intimate touch with the ideas of the people. Law is the idea of right or wrong in a people. The Government know what people think is wrong and what people think is right. When we have a national Government and a legislature to which the members are elected, we certainly know in time how the ideas of the people grow. To-day, this is not a matter merely concerning the Hindus, Sikhs, Jains and Buddhists.

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[Dr. V. K. John] [19th January 1949]

It is a matter concerning everybody, the Muslims, the Christians and every other member of society. There may be a feeling that in very, very exceptional cases man might be allowed to marry while his wife is alive. These cases may be very exceptional. If that is the feeling of the majority, the rules will provide for it and if that feeling dies down and people would rather have monogamy absolutely, the Government would change the rule. I know that 99 per cent or 999 cases out of a thousand of the Hindus, Buddhists, Sikhs or Jains do not take a second wife when the first wife is alive. The exception usually is when the wife is ill or the couple have no children. If it is in conformity with the considered opinion of society to have monogamy as a rule, let it be so, but there may be some exceptions. If there be no exception, there may be concubinage. You know, Sir, that the English, Roman and other systems of law consider illegitimacy as bastardism. An illegitimate son has no right to the property of his father. We in India have a more advanced law from the ancient times. After all, an illegitimate son is not responsible for his illegitimacy. Therefore, the Hindu law provides that he can inherit and he takes an interest in the joint family estate by birth. And that is quite proper. That is why I say that the Hindu Law is much more advanced in this respect than any other system of law. Concubinage is accepted under the Hindu Law. Can we, on the other side, have a law saying that a second marriage is void? A man may be living with the woman keeping her exclusively as a concubine. His child, according to Hindu Law, can inherit. This Bill wants to make a marriage void. I do not know why. Even in the case of the Nambudiris, the marriage is not made void. Of course, the man is punished.

"I say, Sir, that we must make provisions for flexibility. Let the courts decide whether a second marriage is invalid or void. If the general public think that a marriage should be void and the son should not inherit, then it is a different matter. We have our own judges to-day in intimate touch with the opinions of the people to interpret the law. What I say is that, when we make a social legislation, we must provide for flexibility. Therefore, I provide by means of my amendment that the Government can make rules in regard to these matters and get the approval of the Provincial Legislature. What objection can there be to accept my amendment which puts in a simple, clarified and unambiguous language the provision which the draftsman of this Bill wants to introduce. Therefore, I submit that a very simple provision is sufficient for the purpose of putting into the words the intentions contained in the long clauses of the Bill.

"Another thing which I want by means of clause 3 which I have suggested is that any person contravening or abetting the contravention of the provision of section 2 shall be deemed to have committed an offence under section 494 or 495 of the Indian Penal Code. When there is a provision in an All-India law making bigamy an offence, now we need only attract that and we need not produce anything new for those above the age of 18. The drafts-

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man of the Bill has provided in a long paragraph for punishment of persons who neglect to prevent the marriage. I have stated 'whoever abets'. Abetment, Sir, as you know is an offence. Let us make a simple provision that whoever abets the contravention of the provision is also punishable. After all the provisions of the law must be simple. Why have long long verbiage in conveying ideas that ought to be put in a few words into the Bill? What we want is to punish abetment, and not to collar a man saying that he was neglecting the prevention of a marriage. Further the burden of proof is placed on him. Sir, the fundamental principle of criminal jurisprudence is that the burden of proof is not placed on the accused man but it is always on the prosecutor. Of course, a very few exceptions have been made to this principle. I do not see why in this case the burden of proof of preventing a marriage should be on the man who is accused. Why should we not follow the very fundamental principles of jurisprudence? Therefore I say that the Bill is very badly worded and clumsily worded. It does not express the intention properly and it does not provide for flexibility.

"Therefore it is, Sir, that I have taken the liberty to take the time of the House in moving the amendment which would carry out the intentions of the draftsman. Sir, it has been stated again and again on the floor of the House and I have in mind the words of the hon. the Lady Member who seconded the motion for introducing the Bill that if anybody opposed this Bill or if anybody brought any amendment to it, and if that person is a man, then he wants to marry another woman immediately. That kind of allegation is very objectionable because we are all here as responsible Members of the Legislature to frame laws and there should not be any motive attributed. In spite of the attribution of that motive, I was glad to see that Mr. Muthuranga Mudaliar got up and opposed the Bill, because he was willing and bold to say that he did not care for the charge that he wanted to marry again. (Laughter.) I ask the Mover of the Bill in this House not to stand on prestige. After all the Bill is in the Council and it does not matter if it goes back to the Assembly for this amendment. If these amendments are correct and bring out the intention better than the original draft, let us accept the amendment. After all I am not objecting to the fundamental principles. I only say: Let us introduce some flexibility into it and make the language clear."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"Sir, I second the amendment."

MRS. MONA HENSMAN :—"Mr. President, Sir, I do not wish to take much of the time of the House over this point . . ."

MR. PRESIDENT :—"I think you have been dragged into the discussion!"

* MRS. MONA HENSMAN :—"I only just want to make it clear that this amendment is not acceptable to some of us here in spite of the reasons which the hon. Member, Dr. John, just mentioned. I would just like to ask you, Mr. President, whether when

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I first spoke on this Bill I used language to convey the sense that no comma should be changed in this Bill. I feel that there is some superimposition on the truth of what was said that day. I would like to point out that no harm was ever meant to anybody. We know that every one is as earnest as we are.

“ But just now I shall come to the question of residence . . . ”

MR. PRESIDENT:—“ Evidently you want to assure Mrs. John that Dr. John is not trying to marry again.”

DR. V. K. JOHN :—“ Various people have approached my wife, Sir, to ask me to support this Bill without any amendment. I have said, Sir, that I could not agree to do that. I am not a henpecked husband.” (Laughter.)

* MRS. MONA HENSMAN :—“ Coming to the question of residence, Sir, I want to point out that the framers of the Bill have put the word ‘ domiciled ’ with a specific intent. There has been some discussion with regard to the meaning of the words ‘ domiciled ’ and ‘ resident ’ in connexion with some other Bills and you were kind enough to clear up the matter in this very House. There is a lot of difference in the legal meaning of the word ‘ domiciled ’ and the word ‘ resident ’. The word ‘ resident ’ would apply to somebody belonging more or less to the soil of the Province of Madras. But the word ‘ domiciled ’ applies to anybody who has taken up his residence with the intention of living in a certain place. I would therefore oppose the change of the words, Sir.

“ The second thing which I want to point out is that there is absolutely no objection for any of us to the hon. Dr. John bringing in as his amendment that there should be an interim period between the judgment regarding the granting of divorce and the decree nisi, if he feels that the question of divorce in the present Bill should be based on a principle parallel to the Christian law. He is an authority on law, Sir, and I do not pretend to claim to be a pedagogue on the subject, as he is.

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“ So I would not object to Dr. John’s moving an amendment that there should be an interim period between the decree nisi and the absolute nullity of the marriage. Such an amendment might be considered by this House. But to object to this particular clause and say that because no provision for reconciliation exists, or can be made for six months this sentence should be taken out, is a different matter. I would oppose that. Sir, any Act that is passed in this House and in Assembly is always subject to various amendments that may be brought forward later. Therefore, it is super-redundant, unnecessary and provocative to put in the wordings ‘ except under the provisions of rules made from time to time by the Government and approved by the Legislature.’ I oppose these words.”

* SRI N. RANGA REDDI :—“ Mr. President, Sir, I would like to answer some of the points made by the hon. Member Dr. John. I oppose the amendment for the following reasons.

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First of all, let me assure my hon. Friend Dr. John that if I felt there was much substance in what he said I would certainly have said that this Bill should go back to the Assembly. His main objection seems to be with regard to the drafting of the Bill. With regard to the wording of the Bill, I say, Sir, the same idea can be expressed in a different way. Why should we take this tortuous course of expressing the idea. I submit that so far as the expression of the ideas is concerned, there would be as many ways as there are human beings in the world. I express the same idea in one kind of language. My hon. Friend put the same idea in another form. The point to be considered is what is the objection to adopting the present form and language. If you look at the language from that point of view, there can be no objection at all to adopting the language that is employed in clauses 3, 4 and 5.

“ My hon. Friend Dr. John said that the word ‘ Hindu ’ has been made to include Buddhists, Jains or Sikhs. This is a legislative enactment. We are not saying anything here which offends the religious sentiments of anybody. Nobody can take objection to the definition. For the purpose of understanding this enactment and for the purpose of seeing to whom this enactment applies, we say that the word may include Jains and Buddhists. Therefore, Sir, no objection can be taken to the use of the terms.

“ The next point is Dr. John's objection to the word ‘ presumption ’. After all, presumptions are provided for in the Acts. Dr. John, being a distinguished lawyer as he is, knows that there are provisions relating to presumptions in the Indian Evidence Act. There are provisions introduced in special enactments also. When the provisions in the Evidence Act are not sufficient, special provisions are made in the special enactments. This House is aware of similar provisions in the Prohibition Act and the various other Acts. Therefore, it should not be taken that anything special has been done in this Bill with regard to presumption.

“ The next point is with regard to the term ‘ domiciled ’. While the Bill was being debated at the first reading stage, my hon. Friend Dr. John spoke on the use of the word ‘ domiciled ’. I must submit, Sir, that the word has been carefully examined and put. The difficulties that are envisaged would not follow. Therefore, the present word can be retained.

“ The next point is with regard to the dissolution of the marriage. My learned Friend Dr. John appealed that the decree should not be granted immediately and that some time should be given for reconciliation and so on. As I said yesterday, Sir, this is a special enactment. This is not the same as judicial separation. Why should we adopt whatever the English law says. Our customs and manners are different from English customs and manners with regard to marriage. No doubt they have introduced a special provision with regard to divorce. We need not slavishly follow the English law. We need not follow the wordings of the English law—the husband or the wife going to a court of law. Why should we not give some chance for reconciliation? ”

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MR. PRESIDENT :—“ May I point out that divorce is not in clause 2. You may speak on it on the relevant clause.”

SRI N. RANGA REDDI :—“ Dr. John said something on clause 2. That is any person contravening or abetting the contravention of the provision of section 2 shall be deemed to have committed an offence under section 494 or section 495 of the Indian Penal Code. My hon. Friend Dr. John criticized the drafting in the sense that ‘ abet ’ means things that are necessary and that there is no need to use the words ‘ performing the marriages, etc.’ I submit, Sir, that the word ‘ abet ’ has a special meaning. It is a special word which has been put into the Indian Penal Code. One has to refer to the General Clauses Act when a word in a special enactment cannot cover all the meanings that are intended to be conveyed by the special enactment. It is for that purpose that the extra words have been used. Therefore, I submit that drafting also cannot be found fault with.

“ I am indeed indebted to my learned friend Mr. Kaleswara Rao who is responsible for the drafting of this Bill and for piloting it in the Assembly. Most of the definitions that are incorporated in the Bill have been borrowed from Mr. Rao's Hindu Code. Therefore, I submit that no objection can be taken with regard to drafting. My hon. Friend also said that this Bill should be very flexible and that exceptions should be provided for. If we allow exceptions to the rule, then the law itself will become infructuous. Under the Prohibition Act people ask for permits for liquor on various grounds such as sickness, medicine, etc. In the same way, if we are to allow exceptions, the law will become useless. If we accept monogamy as the rule, no exceptions should be provided for. Why should there be any exception? When we say that monogamy should be the rule and not the exception, and when monogamy is accepted by the majority of the people of the Province who profess the Hindu religion, there can be no objection whatever to accepting monogamy without any exceptions. Therefore, Sir, I oppose the amendments moved by Dr. John.”

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I want only to clear one position, and that is that if the drafting people have committed a mistake, they have committed the mistake in good company. Dr. John's objection to clauses 2, 3 and 4 is particularly against bad drafting. He said that the definition of the Hindu is ridiculous, because it can as well take a Muslim as a Hindu. Sir, I now refer to the draft Hindu Code as amended by the Select Committee in the Central Assembly. In the definitions sub-clause (4) says ‘ all references to the expression Hindu in any portion of this Code shall be construed as if they included references to a person who is not a Hindu by religion but to whom such portion applies by virtue of the provisions in sub-sections (2) and (3).’ Therefore, it is not a mistake that we committed in the other House. If I may say so, with due deference, the expression in the Bill as it is, is very correct. Not only the draft Hindu

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Code applies to persons who are Buddhists and Jains, but it definitely mentions, as Dr. John has said, that all references to the expression Hindu shall be construed as if they included references to a person who is not a Hindu by religion but to whom such portion applies by virtue of the provisions in sub-sections (2) and (3). Sir, I do not think, therefore, that the drafting requires to be condemned as Dr. John did.

“ Dr. John made much of the word ‘ domiciled ’. With due deference I may say that this mistake is committed in many of the English Acts, where it is said that ‘ this Act applies to all persons domiciled in England. ’ I only refer to Dicey’s Conflict of Laws, on page 95 and onwards where the word ‘ domiciled ’ is defined. It says that a person is domiciled in a place where he is born. The intention of Mr. Kaleswara Rao and the other House is that if a person following the Hindu Law in Madras is living in Bombay, he shall be bound by this Act. The word ‘ domiciled ’ is used very correctly. It is found in all the Madras Acts.”

MR. PRESIDENT :—“ Objection is taken to domicile in Madras.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, this is the very wording in the English Act—domiciled in England.”

MR. PRESIDENT :—“ Domiciled in England is equal to domiciled in India.”

THE HON. SRI K. MADHAVA MENON :—“ It is applicable to all domiciled in Madras. The English Act also has made mention of this word. Therefore, there is nothing so repugnant or so outrageous in the drafting. Let us not be carried away by the arguments of Dr. John that the drafting is so bad, though I am thankful to him for the compliments he pays to drafting in Government Bills though we had heard worse comments about Government drafting from Dr. John than what we heard to-day. If the amendment of Dr. John is accepted, it would mean that the Government will have to do everything. The amendment says—

‘ No Hindu, Buddhist, Jain or Sikh resident in the Province of Madras and having a wife or husband living shall solemnize or go through the form of a marriage except under the provisions of rules made from time to time by the Government and approved by the Legislature. ’

“ That means that everything has to be prepared by rules and that they should come before the Legislature. But, Sri Kaleswara Rao has made a specific provision in the Bill so that the Legislature may not be troubled again. So far as the intrinsic merit of the Bill is concerned we can have our own opinion but, so far as drafting is concerned, if Sri Kaleswara Rao has erred, he has erred in very good company.”

MR. PRESIDENT :—“ I think the purpose of the amendment is to allow second marriage under certain conditions.”

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* DR. V. K. JOHN :—" Under exceptional conditions laid down by the Legislature."

MR. PRESIDENT :—" The main purpose is to allow second marriage under certain conditions."

* DR. V. K. JOHN :—" The purpose of the amendment is to allow bigamy under exceptional conditions determined by rules framed by the Government and sanctioned by the Legislature. But the rule is monogamy."

MR. PRESIDENT :—" But the intention of the amendment is to allow second marriage."

* DR. V. K. JOHN :—" Under exceptional conditions. Now, Sir, I want to say one word about 'domicile'. Last time also I spoke something about this definition of 'domicile'. I have also read the book 'Conflict of Laws' by Mr. Dicey. Mr. Dicey says—

'When once his domicile in a given country is determined, the question within what part of that country (or law district) he is domiciled becomes, for the purpose of this treatise, immaterial. To decide whether D has his legal home in England is important, because upon that fact depends whether certain of his rights are or are not affected by English law. To determine whether D has his legal home in Middlesex or in Surrey is, for the purpose of this treatise, unimportant, since in either case he comes within the operation of the same system of law.'

"Sir, law is the same for all India. You cannot have 'domicile' in Madras for the purpose of some Madras Acts. Without knowing the law, you have used the word 'domicile' which is an accepted term of law. You cannot have a 'domicile' in Madras Province if the same law is prevalent all over India."

MR. PRESIDENT :—" I now put the amendment of Dr. John to the vote of the House, namely :—

'For clauses 2, 3 and 4, substitute the following :—

"2. No Hindu, Buddhist, Jain or Sikh resident in the Province of Madras and having a wife or husband living shall solemnize or go through the form of a marriage except under the provisions of rules made from time to time by the Government and approved by the Legislature.

"3. Any person contravening or abetting the contravention of the provision of section 2 shall be deemed to have committed an offence under section 494 or section 495 of the Indian Penal Code."

The amendment was put and declared lost.

A poll was demanded and the House divided thus :—

Ayes.

- 1 Dr. V. K. John.
- 2 Abdul Latif Farookhi Sahib Bahadur.
- 3 H. M. Jagannatham.
- 4 Dr. Syed Tajuddin Sahib.

- 5 Sri D. Manjappa Hegde.
- 6 " S. B. Adityan.
- 7 " C. N. Muthuranga Mudaliar.
- 8 " A. Govindacharyulu.

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Noes.

- | | |
|----------------------------------|------------------------------|
| 1 The Hon. Dr. T. S. S. Rajan. | 8 Dr. U. Rama Rao. |
| 2 The Hon. Sri K. Madhava Menon. | 9 Sri A. Gopalakrishnayya. |
| 3 Sri M. Narayana Menon. | 10 Mrs. M. N. Clubwala. |
| 4 „ B. Bhima Rao. | 11 „ M. Hensman. |
| 5 „ L. Subbarama Reddi. | 12 Sri R. Suryanarayana Rao. |
| 6 „ S. K. Satagopa Mudaliar. | 13 „ N. Ranga Reddi. |
| 7 „ P. Veerabhadraswami. | 14 „ G. Venkata Reddi. |

Neutrals.

- | | |
|-------------------------------|--------------------------------|
| 1 The Hon. Dr. S. Gurubatham. | 4 K. T. M. Ahmed Ibrahim Sahib |
| 2 Sri N. Sankara Reddi. | Bahadur. |
| 3 „ N. Venkatachalamaji. | 5 Mr. A. S. T. F. Rodriguez. |
| | 6 Sri V. Nagappa Chettiyar. |

Ayes 8. Noes 14. Neutrals 6.

The amendment was lost.

MR. PRESIDENT :—“ I now put clause 2 to the vote of the House.”

Clause 2 was put and carried.

Clause 3 was put and carried.

Clause 4.

MR. PRESIDENT :—“ I wish to point out to the hon. Member Sri A. Govindacharyulu that according to the clause which has just been passed and which prevents a man or woman marrying again, this amendment runs counter to that. The amendment says—

‘ Provided this sub-clause shall not apply to any marriage between a man who has no issue by the first wife and who marries a second wife for the sake of progeny, with the prior written consent of the first wife.’

There is no use of this amendment because under clause 2, he cannot marry whether there is an issue or not. Now that clause 2 has been passed, your amendment runs counter to that.”

SRI R. SURYANARAYANA RAO :—“ Clauses 2 and 3 have been passed. We are now in clause 4 and this is an amendment to clause 4 and the hon. Member is perfectly entitled to move his amendment to clause 4.”

SRI A. GOVINDACHARYULU :—“ Mr. President, Sir, I wish to draw the attention of the House to the wording of my amendment. I have used the word ‘ issue ’ and I have not specified whether it is ‘ male issue ’ or ‘ female issue.’ I merely have said ‘ issue.’ That means any progeny either male or female. Another point in my amendment is that the person can have a second marriage ‘ with the prior consent of the first wife.’ My hon. Friend, the mover of the Bill said that it is very easy to get the consent of the wife for a second marriage. Certainly not”

MR. PRESIDENT :—“ Sri Muthuranga Mudaliyar has also got some amendment on this and I think that amendment is more comprehensive than Mr. Govindacharyulu’s amendment.”

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SRI A. GOVINDACHARYULU :—“ There is difference between the two.”

MR. PRESIDENT :—“ What is the difference? I think one amendment will do and both the amendments may be consolidated into one amendment and it will meet the requirements of both. The main difference between the amendment of Sri C. N. Muthuranga Mudaliar and that of Sri A. Govindacharyulu is that Sri Muthuranga Mudaliyar's amendment does not contain the words ‘ with her written consent.’ I think if we insert those words in Sri Muthuranga Mudaliyar's amendment, it will be enough.”

SRI A. GOVINDACHARYULU :—“ Is the hon. Member Sri Muthuranga Mudaliyar agreeable to this? ”

MR. PRESIDENT :—“ What I suggest is that Mr. Muthuranga Mudaliyar's amendment seems to be more comprehensive and if we add the words ‘ with the written consent of the first wife ’ in his amendment, I think it will meet the purpose of both the amendments.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ Mr. President, Sir, I submit that my amendment is more comprehensive than Mr. Govindacharyulu's amendment except for the fact that I have not provided for the written consent of the first wife in my amendment. Of course the consent of the wife is implied. The words ‘ written consent ’ is an additional thing in his amendment. I shall have no objection to adding those words in my amendment if the Hon. President so desires.”

MR. PRESIDENT :—“ I think if you add the words ‘ with her written consent,’ it will meet both. I shall now read the amendment of Sri Muthuranga Mudaliyar with the addition of these words and then Sri A. Govindacharyulu may speak on it.

‘ Add the following as the proviso to clause 4 (1) :—

“ *Provided that any man shall have the right to marry another woman during the lifetime of his first wife with her written consent if the first wife has not given birth to any child after her marriage with him or if she is sick or unfit for marital duties and such marriage shall not be void under any of the provisions of this Act.*”

Does the hon. Mr. Muthuranga Mudaliyar agree to the inclusion of the words ‘ with her written consent ’? ”

SRI C. N. MUTHURANGA MUDALIYAR :—“ Yes, Sir, I agree.”

MR. PRESIDENT :—“ Sri Govindacharyulu may now speak on the amendment.”

12-45 p.m. SRI A. GOVINDACHARYULU :—“ I am afraid, Sir, that we are riding rough-shod over the ideals of Hindu marriage and trampling on Hindu religion, custom and usage. If we say that no

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man can marry a second time even for the sake of progeny, then we would be prescribing one remedy for all diseases, the remedy of adoption for couples who have no children. You will be giving them no chance to have a progeny of their own. The mover of the Bill, while arguing with me, asked why the same right should not be given to women also. Certainly, I have the least objection to it. Dr. Rajan said the other day that the women alone should not be taken to be the cause of childlessness. Another doctor friend of mine told me that there is an inherent natural physical difficulty in women after a certain age for bringing forth children, but no such limitation exists in the case of men."

MR. PRESIDENT :—" The hon. Member wants to give the same rights to women also."

SRI A. GOVINDACHARYULU :—" If a woman after a certain number of years of marriage has had no children by her husband, she may be allowed to marry another for the sake of progeny. I have no objection if others want it to be so. Let there be equal rights for both. But I do not think that any woman after she has reached the age of 45 years and has had no children, will want to marry again, because I am told that on account of certain physical conditions, it is not possible for her to bear children after that age. There is no question of equality here.

" Sir, in 1926, the late Lala Lajput Rai, the Punjab Kesari, came to Madras and the Women's Association presented an address to him asking for equal rights for women. The great national leader, the Punjab Kesari replied that there was the least objection to give equal rights to women provided God also would change his mind and make women and men equal in every respect—physically and mentally."

MR. PRESIDENT :—" Even in the capacity to bear children." (Laughter.)

SRI A. GOVINDACHARYULU :—" Therefore, the question of equality does not arise so far as progeny is concerned. There is an inherent capacity in man to bring forth children up to a certain age. In the case of a woman, after a certain age there is an inherent disability. Therefore, man alone should be given the right or option to re-marry provided the wife gives her consent. The wife will not easily give her consent unless she also feels the same desire for a progeny for her husband. After all Hindu religion, Dharma and custom revolve round Karma Siddhanta, which says that we must have progeny. Marriage is for the sake of getting progeny and not for indulgence. Now you say that a man should not have a second marriage whether he has children or not and whether the first wife gives her consent for the second marriage or not. But if the wife is divorced the man can marry again. After divorce the man can marry again and the woman also can marry again, any number of times. The only question is it should be done after the end of the existing marriage. Suppose a husband

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and wife want progeny and the wife also consents to the second marriage of the husband. But this Bill says that there must be a divorce. For the sake of a formal divorce, they will pick up a quarrel and say that they will be divorced. The law can be circumvented in so many ways, whatever may be the penal provisions. Therefore, I say there is absolutely nothing objectionable in the amendment. The hon. Mover of the Bill, Mr. Ranga Reddi can accept it, because it has provided for the consent of the wife. When the consent of the wife has to be obtained for the re-marriage of the husband, where is the difficulty in accepting the amendment? I request the hon. Mover not to be obstinate but to accept the amendment for the sake of Hindu religion and Karma Siddhanta. If he rejects my appeal, I appeal to the House to accept the amendment."

* SRI C. N. MUTHURANGA MUDALIYAR :—" Mr. President, Sir, I am glad that my amendment has preceded me. It is through your good offices that Mr. Govindacharyulu has accepted my amendment with the modifications of his own. I have agreed to the modifications. In supporting the amendment before the House, I must say that it is a proviso which provides for exceptions in this Bigamous Marriages Prevention Bill. Every rule has an exception. It is not as if people are roaming about and running after women for marrying a second time and a third time in this country. This country has always been observing monogamous marriages. Only in exceptional circumstances a second marriage is performed. Our ancient law-givers—Manu, Yagnyavalkya and Bodhayana—have legislated in their own way for monogamous marriages. They have also provided for second marriage in cases of childlessness or incurable diseases.

" Coming to later times, we have had the Nambudiri Marriage Bill. That also is a Monogamous Marriage Bill. An exception is provided there, that if a Nambudri Brahman marries a Nambudri woman and for ten years he is issueless, he can marry a second Nambudri wife. It is there in the Act."

THE HON. SRI K. MADHAVA MENON :—" That is taken away by this Bill."

SRI C. N. MUTHURANGA MUDALIYAR :—" I know you are so anxious that none should have any issue. (Laughter.) In 1946, the Government of India have brought forward the Hindu Code. There also they have not absolutely tabooed second marriage like the sponsor of this Bill. They have provided that a Hindu who has got his first wife can marry again, but the first wife must be given maintenance and if she so chooses, must be provided with a separate living quarter. This contemplates a second marriage. The Bill before us is said to be a concurrent legislation. The Government of India may enact it or this Province may enact it. All the difficulties of domicile and other matters raised by my hon. Friend Dr. V. K. John would not arise if the Centre brings up this Bill. The Centre also is preparing to bring a Bill like this. Where is

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the need for such a hurry? My hon. Friend Mr. Madhava Menon says that we should not wait, because it would take a long time for the Centre to bring forward a Bill, as if people here are anxious to divorce immediately. Our friend, the whip of the Congress Party, brought in the analogy of the Alexandria Library for getting through this Bill. All this is surprising to me, Sir. When the Bill was brought before the House on the first non-official day, the hon. Lady Member, Mrs. Mona Hensman let slip a remark that all those who oppose the Bill are anxious to get married again"

Mrs. MONA HENSMAN :—" On a point of personal explanation, Mr. President, I did not say that"

SRI C. N. MUTHURANGA MUDALIYAR :—" No personal explanation will be accepted now. I do not stand on formalities. Yesterday, my hon. Friend Mr. Ranga Reddi, taking shelter behind her remark quoted her and said that as Mr. Muthuranga Mudaliyar is opposing the Bill he wants to marry again. (Laughter.) I am tempted to retort to the mover of the Bill by saying that he is anxious to divorce his wife and marry again and that is why he is keen on getting this Bill passed immediately. I can say it, but I do not like to say it. I have said it in a way also.

" Sir, the Hon. Dr. Rajan said the other day that medical science and medical research has advanced to such an extent that no disease can be considered incurable. My amendment was given before Dr. Rajan made his speech. So I have provided for sickness and other things. After hearing Dr. Rajan, I think that the latter portion relating to sickness and other things is unnecessary and may be removed from my amendment. Sir, my only point is this. Exception should be made for a second marriage, only in the case of childlessness. The purpose of marriage is to bring forth progeny. That is the Hindu civilization and Hindu custom.

" But the modern tendency is to get married and use con- 1 p.m.
traceptives. Hindu Dharma provides marriage to bring forth progeny. It is on that score that I stand on this amendment. Having seen the fate of Dr. V. K. John's amendment, I know to what fate my amendment will be subjected. Still I am bold enough to move this amendment before this House for " He is a slave who dare not be on the right with two or three." That is why I am impelled to move this amendment and stand by it and implore the members of this House to give their vote for this amendment. If they have decided otherwise, it is their look-out and I must take it that I am the only man standing in this House to safeguard the Hindu Dharma, the Hindu customs and the Hindu morality in this country. Sir, I support the amendment moved by Mr. Govindacharyulu."

* DR. V. K. JOHN :—" Sir, I want to say one or two words in support of this amendment. In my opinion, we, the members of this House, must always try to ascertain the opinion of the community as a whole. Our individual opinion may be one and

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that of the community may be another. But we are in a representative capacity in this House and one point we have to ascertain in connexion with the amendment is, is it the overwhelming and preponderating opinion of Hindus, Jains, Buddhists and Sikhs, when the first wife has no child and if she gives her consent to her husband for marrying a second wife, whether there should be any legislation against it. Personally, I am of the opinion that that is not the sense of the community as a whole that there should be no legislation preventing second marriage in such a case. In such circumstances where a man has no issue and where the wife herself wants to marry him again, he must be allowed to marry a second wife. Whether the consent has been properly obtained or not, is a matter for the court of law to decide. I think this is in consonance with the opinion of the community as a whole. Therefore, such persons should be allowed to marry again."

THE HON. SRI K. MADHAVA MENON :—" Dr. John was telling us some time ago that he was bold enough to oppose some of the provisions of the Bill in spite of his wife's order not to do so and he has dared to go against it."

DR. V. K. JOHN :—" Because your wife is present here, you are supporting it."

* THE HON. SRI K. MADHAVA MENON :—" Even if she is not present here, I will not consider it a disgrace if I can oblige my wife by supporting the present Bill."

" Mr. Muthuranga Mudaliyar rather accused me that I do not want anybody to have any issues. That is not what I meant. I want hon. Members to give the Bill a dispassionate consideration."

" Mr. Govindacharyulu quoted the Hindu Dharma Sastra, the days of Bharatha in support of his argument. Sir, we have gone against many of the tenets of Manu. Many of the penal provisions of Manu have been changed. In this respect even the Muhammadan Law has been changed by the Penal Code. So many of the old and puranic customs are being changed according to the change of time. Times have changed and we cannot continue to follow the same old customs and practices. It is high time that we change our old habits and customs for the better. It is not for progeny alone that marriage is performed as Mr. Muthuranga Mudaliyar has said. It is also for something else. By performing some other functions, we are not disregarding our Hindu Dharma or God. But we must be sincere and honest in our dealings. Though Govindacharyulu might have argued for argument's sake, will he honestly approve Niyoga practice of old days? Why do you think that want of issue is due to some defects of the wife alone? Modern science has testified that the defect of the husband is also equally responsible for want of issue. Have you ever tried to find out who is responsible—either the husband or the wife—for childlessness. In this connexion, it has been said that the consent of the first wife might have been obtained for the

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second marriage. What else could a wife do under the circumstances. She is entirely dependent on him and is under his supreme power. Dr. John said that whether a husband has obtained his wife's consent by her own free will or by coercion can be ascertained in a court of law. I do not think that is a correct position for him to take. I have had experience of the feelings of some *sapathnis* in this respect. Modern opinion is against the idea contained in this amendment. I say, respect modern opinion. Modern opinion says, that monogamy should be the rule and if an exception is to be made, let there be equal standards in this matter."

SRI C. N. MUTHURANGA MUDALIYAR :—" Does it apply to people coming under the Marumakkattayam Act? "

* THE HON. SRI K. MADHAVA MENON :—" Certainly, Sir. We have passed the Malabar Marumakkattayam Act.

" Even now there are persons who, though they have no issue, for so many years, are not marrying a second time for the sake of progeny. According to the Hindu Dharma also, we can adopt a child for the sake of progeny. Therefore there is no point in the arguments of Mr. Muthuranga Mudaliyar and Mr. Govindacharyulu. I oppose the amendment."

* MRS. M. N. CLUBWALA :—" Mr. President, I rise with some trepidation. So many hon. Members have spoken strongly in favour of the Bill and some of them have also spoken against the Bill on the ground that the provisions contained in the Bill are opposed to Hindu Dharma. I may say that no true *shastra* can oppose any of the provisions and no two *shastras* are alike. If all husbands are Ramas there will be no divorce. I would like to endorse what all the Hon. Mr. Madhava Menon has said about the way the consent is obtained. How are we to know how the consent has been obtained. Sir, many of the women are illiterate and pressure may be brought on them to obtain their consent, and that would be very unfair. Moreover an Indian woman is always devoted to her husband and she could not go against his wishes. Some arguments have been advanced by some hon. Members that it is due to the defect of the woman, that there is childlessness. But the question is, who is to determine whether it is the husband or the wife who is suffering from any disability. So that is an important point that should be considered.

" Sir, provision does not seem to be made for the first wife when she does not wish to live with her husband to have maintenance for her children, and herself. This is all what I want to say."

* SRI N. RANGA REDDI :—" Mr. President, Sir, I have nothing more to say except to oppose this amendment. The point mentioned again by the Mover of the amendment has been replied by many hon. Members of this House. Mr. Govindacharyulu who spoke on this amendment said that religion was in danger and that

[from [Sri N. Ranga Reddi] [19th January 1949]

we are interfering with our religious practices. I may submit, Sir, that even at the time when I introduced this Bill, I said that the old orthodox people who are not in favour of introducing any kind of reform either with regard to marriage or any other social matters, always say that religion is in danger. Sir, we have seen how the Widow Remarriage Act and the *Sharda* Act have been placed on the Statute Book. By these two Acts, so many people have been benefited. So also, in the same manner if this Bill is passed into law, it will benefit a great number of people.

“ One hon. Friend has said that by this Bill, women claim equal rights along with men. I do not think that they claim equality in all fields. They are only complementary to another. Now, medical science says that human beings are bisexual, probably man contains something of a woman and a woman contains something of a man and after a certain stage they probably come out as man and woman. Whatever it is, my point is man and woman are complementary to each other and they cannot change place in all walks of life. If we can view things in that perspective, we can see the point that women should not be placed at a disadvantageous position. Woman has always been by the side of a man in all fields. Therefore, it is time that we should remedy these defects and give liberty to women also. The man does not suffer in any way by conceding this right. Therefore, I oppose this amendment.”

The amendment was put and declared lost.

A poll was demanded and the House divided thus :—

Ayes.

- 1 Dr. V. K. John.
- 2 Sri H. M. Jagannatham.
- 3 „ D. Menjappa Hegde.

- 4 Sri S. B. Adityan.
- 5 „ C. N. Muthuranga Mudaliyar.
- 6 „ A. Govindacharyulu.

Noes.

- 1 The Hon. Dr. T. S. S. Rajan.
- 2 The Hon. Sri K. Madhava Menon.
- 3 Sri N. Narayana Menon.
- 4 „ B. Bhima Rao.
- 5 „ L. Subbarama Reddi.
- 6 „ S. K. Satagopa Mudaliyar.
- 7 „ P. Veerabhadraswami.
- 8 The Hon. Dr. S. Gurubatham.

- 9 Sri A. Gopalakrishnayya.
- 10 Mrs. Mona Hensman.
- 11 „ M. N. Chubbwala.
- 12 Sri R. Suryanarayana Rao.
- 13 „ N. Ranga Reddi.
- 14 „ G. Venkata Reddi.
- 15 „ C. Veerabhadra Rao.

Neutrals.

- 1 Sri N. Sankara Reddi.
- 2 „ N. Venkatachalamaji.
- 3 Abdul Latif Farookhi Sahib Bahadur.

- 4 K. T. M. Ahmed Ibrahim Sahib Bahadur.
- 5 Mr. A. S. T. F. Rodriguez.

Ayes 6 : Noes 15 : Neutrals 5.

The amendment was lost.

Clause 4 was put and carried.

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Clause 5.

* DR. V. K. JOHN :—" Sir, I move the following amendment that stands in my name :— 1-15 p.m.

For clauses 5 to 8, substitute the following :—

" The provisions of the Indian Divorce Act, 1869, shall apply to Hindus, Buddhists, Jains and Sikhs, resident in the Province of Madras notwithstanding the provisions to the contrary in section 2 of the said Act."

" On this, Sir, I do not want to make a long speech, but I would say for the information of the ladies who are watching the progress of this Bill that though this Bill is popularly known as a Monogamous Bill, it is actually a Divorce Bill and the real intention of the framers and the sponsors of this Bill, in my opinion, is to provide for divorce, and they have provided for monogamy as an excuse for divorce, because there is no provision against concubinage. Divorce is not recognized under Hindu Law and they want divorce. If you read newspapers you will find how society is disrupted both in Europe and America and how there are thousands of cases in the matrimonial courts in England and thousands and thousands of such cases in America. This sort of open door tempts people with the result that society is disrupted. It is not for the good of the society, especially when in this country we are not accustomed to divorce. Of course, you may help educated women. If a man wants to marry another woman, he can drive a woman mad and if she remains mad for five years he can marry another woman. What will be the position of such a woman in the hands of an unscrupulous man. He will merely divorce his wife and the woman will be helpless. I want the women of this Province not to be carried away by sections 3 and 4 of the Bill, but let them direct their attention to section 5 and those that follow it. I condemn this Bill because I do not think it is the opinion of the majority of Hindus, Buddhists, Jains and Sikhs of this Province or anywhere in this country that a man should be allowed to divorce his wife. If you want to provide for divorce, give it to the woman and let that right be confined to the woman. The proper course would be for the woman to go to the court and get a divorce against her husband. I say this Bill in the hands of unscrupulous persons will do great harm because they will divorce their wives and marry again.

" I repeat Sir, the second part of the Bill namely divorce is, I think, the main object of this Bill. As I said in the beginning, previously 999 out of 1,000 Hindus do not take a second wife when the first wife is alive and a law providing for monogamy does not make much of a difference. I want to impress on this House that you are running into something which you ought not to, because you will put women to misery. You may therefore reject that part of the Bill and if you will not confer the right of divorce on women and if that is not possible, I am for pressing my amendment. After all, we have to-day passed from the stage of slavery to Independence

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and if we have to keep the integrity, solidarity and unity of this country, we should have a unified law for everybody. Therefore, why not adopt the provisions of the Indian Divorce Act *in toto* for Hindus, Jains, Buddhists and Sikhs. No civilized system of law allows divorce in the case of a man whose wife happens to be mad for a continuous period of five years on the date of the petition—not from the date of the marriage. The duty of the husband is to look after an insane wife and not divorce her. The other day, my hon. Friend, Mr. Ranga Reddi said, no, you must maintain her. Suppose no maintenance is paid to her, she will have to go to the court. Can a woman who is not looked after actually get maintenance from the husband? It is oppressive on the woman that if she is mad for five years, there can be divorce. I do not find such a provision in any system of law either in the American or English Divorce Acts. Hereafter we are not Hindus or Mussalmans. Let us have one common law. Therefore, I am moving this amendment.

“ If you look at clause 8, you will see that it is clumsily worded. Again if you refer to section 6 (f), it says : ‘ any other matter for which no provision or no sufficient provision is made in this Act, and for which provision is either made in the Indian Divorce Act, 1869, or considered to be necessary by the Provincial Government for giving effect to the purposes of this Act ’ the Provincial Government may make rules to carry into effect the purposes of this Act. Now, Sir, what I suggest is, let us have the Indian Divorce Act, because that is a complete system of law which provides for the filing of an application, for contesting an application, for the duties of the court, for separation, for nullity and for various other things. It is a comprehensive law. When there is a comprehensive Code to-day existing in this country and a unified system of law for all India, why should you introduce a new provision which does not obtain in any other part of the world. I do not attribute any motive to anybody when I say that the framers of this Bill did not understand the weakness of the provisions in sections 5 to 8—not being conversant with divorce law. As I said before this is not a monogamous Bill but a divorce Bill. I therefore suggest that either you amend sections 5 to 8 as proposed in my amendment or confine divorce for women only or at least let us attract the Indian Divorce Act and let us not go beyond that.”

SRI H. M. JAGANNATHAM :—“ I second the amendment, Sir.”

1-30
p.m.

MRS. MONA HENSMAN :—“ Mr. President, one thing I would tell the hon. Member who has just sat down after referring in smooth and flowing terms to the cause of the women outside House. He urged, that the right of divorce might be confined to women and it should not be given to man. I challenge him Mr. President, to ask this House and the Nation whether it is not better for a woman to be called to the court and be divorced by her husband than to sit in her home with the husband having a second

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wife, the second marriage having been contracted by her husband without the right of her going home; she could leave the man who has married; she may go to her home; she may have alimony and she may have the satisfaction perhaps of being allowed some of her children and she may even have—but I do not think that would happen in this country—even the right of finding other support than the man who sent her away. Is it not better that the woman should have a right of divorce an open divorce than to have the secret putting on of another woman in her home. The hon. Gentleman who has just spoken may know the Divorce laws backwards and upwards, point to point but, Sir, we, women, know the result of such things in our homes and any of the alternatives that he has given will only give them a superficial and specious right while the man will have the satisfaction of having two wives in his home. Sir, we cannot accept his amendment and I would request the House to throw it out on the grounds brought by him."

* SRI N. RANGA REDDI:—"Mr. President, I oppose the amendment. My hon. Friend said that it was an eye-wash to say that it aims at monogamy and that the purpose of the Bill is to provide for divorce. This Bill provides for both monogamy and also for divorce and there is no eye-wash at all.

"He urged that the right of divorce should be confined to women and his main argument seems to be that unscrupulous husbands would divorce their wives on flimsy grounds and they will be deserted. I really appreciate his arguments when he says that women have to be given protection but I feel that his argument is not very genuine and his purpose is to see that this Bill is thrown out on some ground or another and therefore, it is that he has put forward the plea that women alone should be given the right of divorce. As my Friend Mr. Kaleswara Rao has suggested, if the home cannot be run smoothly either on account of the wife or on account of the husband, the peace of the home must be secured. Now monogamy is the practice and it is sought to be made the law by this Bill. Supposing the wife runs away with another man and if the suggestion of Mr. John were to be accepted, the man will have to sit idle; what is the man to do? So the right of divorce should be given to both the man and the woman alike. My hon. Friend said that divorce stands by itself and the husband does not incur any further responsibility after the divorce. I have pointed out more than once in the course of the discussion that the husband has the obligation to protect and give maintenance to the divorced wife after the divorce till she is married. But the position is different if she had been unchaste or has refused to live with her husband in pursuance of a court decree for under the Act of 1916 she is entitled to some maintenance in such circumstances.

"He has suggested that there should be one uniform personal law for all people. I appreciate the suggestion. But if there is to be any such move to introduce one uniform personal law for all people, the Muslim will be up against it saving that their culture

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is being jeopardized and that their religion is being interfered with and they will question: 'What right have these Hindus to dictate to us or to legislate for the Muslims?' Probably it is in that spirit that the Muslim members of the House have not voted one way or the other and they have remained neutral and it is in that way that their attitude has to be interpreted. Even with regard to a uniform procedure with regard to divorce, I submit, Sir, the arguments of my hon. Friend Dr. John cannot be accepted. We are introducing a new rule of law and it is not necessary that we should copy word for word what is contained in other enactments, the Indian Divorce Act for instance. There is provision for divorce in the Islamic law and the procedure prescribed for that purpose in the Muslim law is quite different from what is laid down in the Indian Divorce Act. It is not, therefore, necessary that we should follow the procedure prescribed for Christians for divorce. Further it is now too early to think of a uniform personal law for all people living in the Province. So far as the provisions for divorce are concerned, they have been taken from Rao's Hindu Code and there ought to be no objection for accepting this principle. I therefore oppose the amendment and it ought not to be accepted."

The amendment was put and declared lost.

SRI C. N. MUTHURANGA MUDALIYAR:—"Mr. President, there is one other amendment standing in my name and if I should have moved it, my work is over. I move, Sir, that in clause 5 (1) (b) for the words 'is a concubine of any other man or is leading the life of a prostitute', substitute 'is unchaste'."

MR. PRESIDENT:—"Can a woman be the concubine of her own husband?"

SRI C. N. MUTHURANGA MUDALIYAR:—"I do not know, Sir."

MR. PRESIDENT:—"The wording is: 'is the concubine of any other man'."

SRI C. N. MUTHURANGA MUDALIYAR:—"I do not know if the modern law permits it. Under the ancient law a woman can only be the wife of her husband and not the concubine of her husband."

"By the amendment I have suggested I do not propose to bring about a revolution taking you back to the ancient days of uchikudimies and madisanchies; we are all living in the modern world and my object in bringing this amendment is to make the Bill decent enough so that it might fit nicely into the statute book. Now we see the language used is so vulgar that I do not want the statute book to be besmirched with these vulgar words and that is why I have used the modest words 'is unchaste' and I do not think it will be unacceptable to the sponsors of the Bill or to the House but if still they oppose and defeat it, I do not mind since it is not going to change the character of the Bill."

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SRI H. M. JAGANNATHAM :—" I second the amendment."

SRI N. RANGA REDDI :—" I regret very much that I cannot accept the amendment for the simple reason that the definition of the word 'unchaste' has not been given."

SRI C. N. MUTHURANGA MUDALIYAR :—" I may tell my hon. Friend that the phrase is found in the Hindu Code passed in 1946, Act XIX of 1946, by the Central Assembly."

* SRI N. RANGA REDDI :—" The ground mentioned by the hon. Member 'unchastity on the part of the wife' may appeal to many people but it is difficult to accept it. There is a provision in the Hindu Law that if immorality on the part of a wife is condoned by her husband, she becomes entitled to what is called a starvation maintenance. According to the amendment of my hon. Friend even such stray acts can be a real ground for divorce and if the amendment is accepted, irrespective of what is laid down in the Hindu Law and has been sanctioned from time immemorial, we are trying to undo them. In fact most of the arguments in connection with divorce has proceeded on the basis that the moment the petition for divorce is filed in a court of law, it is immediately granted without giving a chance to the parties to come to a settlement. If on that ground divorce is to be granted, family life will be disrupted every time a man or woman goes astray. After all it may not be a case of wanton unchastity. Such difficulties might arise and for that reason, I am unable to accept the amendment."

THE HON. SRI K. MADHAVA MENON :—" Regarding the point raised by the President, these are the words found in the Hindu Code Select Committee Report :

'or if the wife is the concubine of any other man or leads the life of a prostitute.'

These are the words in the Hindu Law draft."

MR. PRESIDENT :—" So, the vulgarity is central and not provincial? "

The amendment was put and lost.

* SRI S. B. ADITYAN :—" Mr. President, the object of my amendment is to drop sub-section (2) of section 5 which says that the wife who has completed 18 years of age may present a petition for the dissolution of the marriage without stating reason."

MR. PRESIDENT :—" I do not want to interrupt the hon. Member. I suppose the hon. Member referred to this particular aspect in his comments in the general discussion of the Bill. I suppose he remembers it."

* SRI S. B. ADITYAN :—" Yes, Sir."

MR. PRESIDENT :—" So, I suggest you might be brief."

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1-45
p.m.

* SRI S. B. ADITYAN :—" I will not take more than five minutes. Obviously all that the framers of the Bill had in mind was the marriage of a young man who wanted to go quickly through the form of a ceremony and contract a second marriage. The section invalidates such marriage even though it was performed before the coming into force of this Act. I wish to point out that the section strikes much deeper and it strikes at marriages which have been held valid for the last forty years. I have in mind the case of a person who married his first wife some forty-six years ago and his second wife forty years ago. They have been living as man and wives for such a long time. And now what does this section propose to do. It invests the first wife with a right to dissolve the marriage for no reason whatsoever except that the second marriage was performed some forty years ago. I first thought that the words 'before the commencement of this Act' was an error for the words 'after the commencement of this Act.' I see it is deliberately used. I suggest it is totally unjust and wrong to invest a person with a right to invalidate a marriage performed forty years ago and which was accepted as right all along by the parties thereto, the relatives of the parties and by society. Now it is said that a wife who had been in marital relations with her husband for so long is not likely to come to court and ask for divorce. Sir, to contend like this, is, to say the least, what a legislature should not do, because, we should not invest a person with a right in the pious hope that he or she will not exercise it. Look at the reasons for which a divorce can be claimed? Read the sub-clauses of clause 5 (1). Are these reasons not enough for a wife in the case of a marriage solemnized forty years ago before the commencement of this Act? Why should she get a divorce without assigning reason? I hope the sponsor of this measure in this House will make a note of it and deal with this point in his reply.

" Sir, there is very little time before me. Another reason given by the sponsor of this Bill is that there is a similar provision existing in the Hindu Code. I said, first, without looking into Code and it would be surprising if there is such a provision, for the framers of the Hindu Code would not easily set aside what has been held valid by society so long. I looked into the Hindu Code and I find exactly the opposite is provided. Refer to section 29 (ii), which says, 'except in the case of a marriage celebrated before the commencement of this Code which was valid at the time of celebration', etc."

MR. PRESIDENT :—" It is the same as in the Bill."

* SRI S. B. ADITYAN :—" No, it is the opposite. What the Code says is, in the case I have in mind, people who are married twenty or thirty years ago, they having been a party to marriage and the marriage having been recognized as valid at the time of marriage cannot come now and say that there is a second wife to the husband and so an action for divorce should lie. I have got in mind the case of a Member of this House, whose case is exactly

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parallel to that I mentioned as an example to the House. There was a first marriage in 1896 and there was a second marriage in 1906. Now if the present clause is to be passed as it is, it would invest the first wife with a right for divorce. Therefore, I say it is unjust that such right should be given. Finally, Sir, it is sometimes said that if any amendment is carried in this House, then the Bill will have to go back to the Assembly. It is an error to oppose all amendments on this score in this House. I am convinced it is our duty to rectify any error even if the rectification of it would involve the Bill going back to the other House. Otherwise there is no reason for the existence of this House."

MR. PRESIDENT :—" That argument does not count as all members of this House are free to vote as they like."

SRI S. B. ADITYAN :—" Exactly, I hope that fact would be borne in mind now by the members. I hope this error will be rectified at this stage."

* DR. V. K. JOHN :—" Sir, I strongly support the amendment, and I hope hon. Members will realize their responsibility, that every one of us is responsible for passing this Bill. I have not the slightest doubt that there is a mistake here."

MR. PRESIDENT :—" It is no mistake; it is deliberately put."

* DR. V. K. JOHN :—" Then, Sir, this Bill is brought with some ulterior motive. (Laughter.) For the benefit of members of this House I will clarify the position. The amendment seeks to omit clause 5 (2)."

MR. PRESIDENT :—" I am told this was put in by the joint select committee."

* DR. V. K. JOHN :—" Whatever it is, when a mistake is discovered what is the function of this House if it is not to correct it? Now, the point is this clause seeks to give retrospective effect to marital relationship. After a man and woman have lived for several years as husband and wife it is now proposed to give the first wife right to seek divorce on the ground that there is a second wife for her husband. I appeal to every member of this House to realize his responsibility in passing this clause 5 (2) as it is. I vehemently oppose this clause and support the amendment."

* SRI N. RANGA REDDI :—" Sir, I oppose the amendment for this reason. As I submitted already, a similar provision is already there in the Central Act. It provides for maintenance to a woman if her husband marries a second wife. This is purely an extension of that principle in the sense that divorce has been granted. If a wife can get separate maintenance and resides away from her husband, what is to be her position? She is denied her marital duties, and supposing she wants to marry another person, why should she not be allowed to marry? Then, another thing also; I do not think any wife after living with her husband so long as 20 or 30 years will choose to divorce her husband. It is a well known

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fact that there is a Hindu Widows Remarriage Act, under which, every widow, if she wants, can remarry. But when there is no chance for even virgin widows to remarry, who will do it? So for these reasons this provision ought to be allowed to continue."

The amendment was put and lost.

Clause 5 was put and carried.

Clause 6 was put and carried.

Clauses 7, 8, 1 and the preamble were separately put and carried.

SRI N. RANGA REDDI :—" Mr. President, Sir, I beg to move that the Bill be passed into law. In doing so, I would like to congratulate Mr. Kaleswara Rao in having piloted this Bill in the other House, and I would like to congratulate . . ."

MR. PRESIDENT :—" Yourself." (Laughter.)

SRI N. RANGA REDDI :—" The other members of this House who have given their entire support for passing this Bill."

MR. PRESIDENT :—" Also the neutral who did not oppose the passing of this Bill!" (Laughter.)

SRI N. RANGA REDDI :—" I should also express my sincere thanks to the Government for having provided a non-official day as early as possible for passing this Bill, and also the President for his co-operation in providing a complete day and also the Government in permitting an official day to be converted into a non-official day.

2 p.m.

* DR. V. K. JOHN :—" Sir, while it is usual to congratulate members who have been responsible for piloting a Bill, I am constrained to utter a warning in this case. Having some knowledge of the increasing number of cases in Europe, America and other parts of the world where divorce is allowed, I say that this Bill—I characterise this not as a monogamy Bill but as a divorce Bill—will open the floodgates of disruption in Indian families which have not been there for thousands of years. You will find that courts will receive a large number of applications for divorce as is the case in England where the number runs into thousands. In my opinion the monogamy aspect of the Bill will not do much good to the people, because monogamy is the existing practice. The Catholic Church prescribes monogamy but does not allow divorce. I say divorce does not follow from monogamy. We may have provided for monogamy and a large majority of the people are for it. But we need not have provided for divorce. It is a mistake and a tragedy that we should have provided for divorce in Hindu society. As years go by, you will find that the disruption found in the other parts of the world will set in in the families of Hindus, Buddhists, Jains and Sikhs. I regret that that part of the Bill should have been passed into law."

The motion was put and carried.

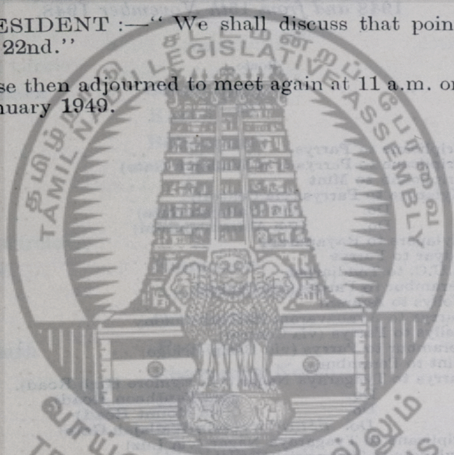
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THE HON. DR. T. S. S. RAJAN :—“ I propose that the House be now adjourned to meet again at 11 a.m. on 22nd January. There is a function to-day afternoon where the President of the Congress is meeting the party members.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Sir, before you adjourn the House, I would request the Hon. Leader of the House to provide an early opportunity for the discussion of the other non-official Bills. If there is no non-official day, an official day can be converted into a non-official day.”

MR. PRESIDENT :—“ We shall discuss that point when we meet on the 22nd.”

The House then adjourned to meet again at 11 a.m. on Saturday, the 22nd January 1949.



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APPENDIX I.

[Vide answer to starred question No. 172 asked by Sri S. B. Adityan at the meeting of the Legislative Council held on the 19th January 1949, page 819 supra.]

Comparative statement showing the bus fares in force before 15th November 1948 and from 15th November 1948.

Serial number.	Route number.	Route.	Fares.	
			Before 15th November 1948.	From 15th November 1948.
			(4)	(5)
(1)	(2)	(3)	ANNAS.	ANNAS.
1	1	Triplicane to Parrys	2	2½
2	1-B	Triplicane to Parrys (via Wallajah Gate)	2	2½
3	2	Triplicane to Mint	3	3
4	3	Mylapore to Parrys (via Central)	3	3½
5	3-B	Do. (via Wallajah Gate)	3	3½
6	3-D	Do. (via Abiramapuram)	3½	4
7	4	Mylapore to Rayapuram	4½	5
8	5	Adyar to Parrys	4	4½
9	6	M.U.C. to Tondiarpet	2	2½
10	7	Perambur to Parrys (via Central)	3	3½
11	7-A	Kellys to Agaram	3	3½
12	7-B	Parrys to Ayanavaram Railway Colony	3½	3½
13	7-C	Kellys to Parrys (via Central)	2½	2½
14	8	Perambur to Parrys (via Basin Bridge)	3	3½
15	8-A	Mint to Perambur	2	2½
16	9	Parrys to Tyagaraya Nagar (via Egmore High Road). ..	3	4
17	10	Do. (via Pantheon Road)	3	4½
18	11	Do. (via Mount Road)	3	4
19	11-A	Do. (via Wallajah Gate)	3	4
20	12	Triplicane to Tyagaraya Nagar (via Luz)	3	3
21	12-A	Mylapore to Tyagaraya Nagar	2	2
22	13	Triplicane to Tyagaraya Nagar (via Pycrofts Road) ..	3	3
23	14	Kellys to Mint	2½	2½
24	15	Amjikalai to Parrys	2½	3
25	16	Mount Road to Kellys	2	2
26	17	Nungambakkam to Parrys	2½	3
27	17-A	Triplicane to Kodambakkam Temple	4	4
28	18	Parrys to Saidapet	3	4
29	21	Parrys to Mandavali (via Mount Road)	3½	3½
30	21-A	Do. (via Beach Road and Luz)	3½	3½
31	21-B	Do. (via Beach Road and San Thome).	3½	3½
32	22	Triplicane to Kellys	2½	2½
33	22-A	Kellys to Q.M.C. (via Mount Road)	..	3½
34	23	Mylapore to Egmore Railway Station (via Commander-in-Chief's Road)	3	3½
35	23-A	Mylapore to Egmore Railway Station (via Nungambakkam High Road)	3	3½
36	24-A	Amjikalai to Q.M.C.	3	3
37	56	Mint to Tiruvottiyur	2½	2½

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APPENDIX II.

[Vide answer to starred question No. 174 asked by Sri R. Surya-narayana Rao at the meeting of the Legislative Council held on the 19th January 1949, page 821 supra.]

Statement showing the Localities and the extent of Casuarina Plantations undertaken by the Government from the year 1940-41 onwards.

Name of the division.	Name of the range.	Extent in acres.
(1)	(2)	(3)
Ootacamund Circle—		
South Kanara	Coondapoor	438
	Karkal	192
Pulghat	Bolampatti	1
		631
Coimbatore Circle—		
Tirunelveli	Nanguneri	99
	Ambasamudram	31
	Courtalam	8
Salem South	Padugai	1,400
	Shevaroy North	11
	Rasipur	36
	Shevaroy South	23
	Tiruturaipundi	373
		1,981
Bellary Circle—		
	Repalle	4,354
	Bapatla	1,178
	Kakinada	917
		6,449
Salem Circle—		
Chingleput	Chingleput	873
	Sriperumbudur	1,201
	Tirupporur	960
	Markanam	1,432
	Tirukkoyilur	862

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Name of the division.	Name of the range.	Extent in acres.
(1)	(2)	(3)
Salem Circle—cont.		
Nellore	Sriharikota	3,356
	Muthukur	1,398
	Kavali	1,809
Vellore East	Vellore	681
	Santhavasal	40
	Thiruvannamalai	47
Salem North	Denkanikota East	30
	Denkanikota West	18
	Krishnagiri	2
		12,709
	Grand total	21,770

